Supreme Court of the United States.

No. 100.—October Term, 1903.

Daniel Cronin, Plaintiff in Error,
vs.
Frank Adams, John T. Bottom and William H. Griffith, constituting The Fire and Police Board of The City of Denver, and Hamilton Armstrong, Chief of Police of The City of Denver.

In error to the Supreme Court of the State of Colorado.

[January 4, 1904.]

Mr. Justice McKenna delivered the opinion of the Court.

This suit was brought by the plaintiff in error against the defendants in error, who were officers of the city of Denver, to restrain them from enforcing an ordinance of the city on the ground that the ordinance was "contrary to the provision of the constitution of the State of Colorado and amendments thereto, and contrary to the provisions of the Constitution of the United States," and "contrary to the laws of the State of Colorado, guaranteeing civil rights to all persons, and contrary to other statutes of the State of Colorado."

A preliminary injunction was allowed. It was made perpetual upon hearing by decree of the court. The decree was reversed by the Supreme Court of the State, and this writ of error was then sued out.

Sections 745 and 746 of article 15 of the ordinance of Denver, which are complained of and attacked, are as follows:

"Sec. 745. Each and every liquor saloon, dram shop or tippling house keeper, . . . who shall have or keep, in connection with or as part of such liquor saloon, dram shop or tippling house, any wine room or other place, either with or without door or doors, curtain or curtains, or screen of any kind, into which any female person shall be permitted to enter from the outside, or from such liquor saloon, dram shop or tippling house, and there be supplied with any kind of liquor whatsoever, shall, upon conviction, be fined as hereinafter provided.

"Sec. 746. No person . . . having charge or control of any liquor saloon or place where intoxicating or malt liquors are sold or given away, or any place adjacent thereto, or connected therewith in any manner whatsoever, either by doors or otherwise, shall suffer or permit any female person to be or remain in such liquor saloon, dram shop, tippling house or other place where intoxicating or malt liquors are sold or given away, for the purpose of there being supplied with any kind of liquor whatsoever. No

person owning or having charge or control of any liquor saloon, dram shop or tippling house shall employ or procure, or cause to be employed or procured, any female person to wait or in any manner attend on any person in any dram shop, tippling house or liquor saloon, or in any place adjacent thereto or connected therewith, where intoxicating or malt liquors are sold or given away, nor shall any female person be or remain in any dram shop, tippling house, liquor saloon or place adjacent thereto or connected therewith, and wait or attend on any person, or solicit drinks in any such place."

The Supreme Court held that those sections did not violate the Constitution of the State, and that they were authorized by the statutes of the State, and sustained the validity of the ordinance against the contention that it violated the Constitution of the United States, on the ground that it was enacted in the exercise of the police power of the State. Declaring the laws of the State in regard to liquor selling, the court said:

"Under the license laws of this State no one may engage in the business of selling liquor without a license. He has no absolute right to sell at all. It is only a privilege he gets when a license is granted. The city of Denver, under its charter, has the exclusive power to prohibit, restrain, tax and regulate the sale of intoxicating liquors. It may exercise that power to prohibit the sale altogether; or, if it sees fit, it may regulate the sale and impose such conditions as it deems necessary. Under these license laws, one may not engage in the liquor traffic as of common right, but may do so only upon compliance with the prescribed regulations, and if he applies for a license under which only he may lawfully sell, he is held to take that license with whatever restrictions or limitations are imposed by the authority which, and which only, can give him the coveted privilege. One of the conditions which the charter of Denver requires to be inserted in every liquor license is the one of which plaintiff complains."

This, the court decided, disposed of the complaint of plaintiff in error. In other words, that the restrictions of the ordinance were conditions of his license, and by accepting the license he accepted the conditions, and no rights of his were infringed. "The traffic in it (liquor) is unlawful without a license, and it may be prohibited in Denver," was the unequivocal declaration of the court.

What cause of action, then, has plaintiff in error? He is not a female nor delegated to champion any grievance females may have under the ordinance, if they have any. The right to sell liquor by retail to anybody depends upon the laws of the State, and they have affixed to that right the condition expressed in the ordinance. But even if plaintiff in error were not in such situation he cannot resist the ordinance. We said in *Crowley* v. *Christensen*, (137 U. S. 86):

"The sale of such liquors in this way (by retail) has therefore been, at all times, by the courts of every State, considered as the proper subject of legislative regulation. Not only may a license be exacted from the keeper of the saloon before a glass of his liquors can be thus disposed of, but re-

strictions may be imposed as to the class of persons to whom they may be sold, and the hours of the day and the days of the week on which the saloons may be opened. Their sale in that form may be absolutely prohibited. It is a question of public expediency and public morality, and not of Federal law. The police power of the State is fully competent to regulate the business—to mitigate its evils or to suppress it entirely. There is no inherent right in a citizen to thus sell intoxicating liquors by retail; it is not a privilege of a citizen of the State or of a citizen of the United States."

Judgment affirmed.

No. 101.

Daniel Cronin, Plaintiff in Error, *vs.* The City of Denver. } In error to the Supreme Court of the State of Colorado.

[January 4, 1904.]

Mr. Justice McKenna delivered the opinion of the Court.

This action was brought in the police court of the city of Denver, State of Colorado, to collect $500, for the violation of section 746 of ordinance No. 101 of the city. Plaintiff in error was found guilty, and fined the sum of $50. On appeal to the County Court he was also found guilty and fined $100. The judgment was affirmed by the Supreme Court of the State, and thereupon the Chief Justice of the State allowed this writ of error.

The case involves the constitutionality of sections 745 and 746 of the ordinance of the city of Denver. That question was passed upon in *Cronin* v. *City of Denver*, just decided, and on its authority the judgment is

Affirmed.

True copy.

Test:

Clerk Supreme Court, U. S.